
**MOLEMOLE LOCAL MUNICIPALITY
2019-2020**



**POLICY AND CODE OF GOOD PRACTICE
ON THE HANDLING OF SEXUAL
HARASSMENT CASES**

1. INTRODUCTION:

- (a) The objective of this code is to eliminate sexual harassment in the workplace.
- (b) This code provides appropriate policy and procedures to deal with the problem and prevent its recurrence.

2. APPLICATION OF THE CODE:

- (a) This code is intended to guide Council and its employees on the handling of sexual harassment cases.
- (b) Nothing in 2(a) above confers the authority on Council to take disciplinary action in respect of non-employees.
- (c) A non-employee who is a victim of sexual harassment may lodge a grievance with Council where the harassment has taken place in the workplace or in the course of the harasser's employment.

3. DEFINITION OF SEXUAL HARASSMENT:

- (a) Sexual harassment is defined as unwanted conduct of a sexual nature. The unwanted nature of sexual harassment distinguishes it from behaviour that is welcome and mutual.
- (b) Sexual attention becomes sexual harassment if:
 - (i) The behaviour is persisted in, although a single incident of harassment can constitute sexual harassment; and/or
 - (ii) The recipient has made it clear that the behaviour is considered offensive; and/or
 - (iii) The perpetrator should have known that the behaviour is regarded as unacceptable.

4. FORMS OF SEXUAL HARASSMENT:

- (a) Sexual harassment may include unwelcome physical, verbal or non-verbal conduct, but is not limited to the examples listed as follows:
 - (i) Physical conduct of a sexual nature includes all unwanted physical contact, ranging from touching to sexual assault and rape, and

includes a strip search by or in the presence of the opposite sex.

- (ii) Verbal forms of sexual harassment include unwelcome innuendoes, suggestions and hints, sexual advances, comments with sexual overtones, sex-related jokes or insults or unwelcome graphic comments about a person's body made in their presence or directed toward them or unwelcome and inappropriate enquiries about a person's sex life.
 - (iii) Non-verbal forms of sexual harassment include unwelcome gestures, indecent exposure, and the unwelcome display of sexually explicit pictures and objects.
 - (iv) Quid pro quo harassment occurs where an owner, employer, supervisor, member of management or co-employee, undertakes or attempts to influence the process of employment, promotion, training, discipline, dismissal, salary increment or other benefit of an employee or job applicant, in exchange for sexual favours.
- (b) Sexual favouritism exists where a person who is in a position of authority rewards only those who respond to his/her sexual advances, whilst other deserving employees who do not submit themselves to any sexual advances are denied promotions, merit rating or salary increases.

5. POLICY STATEMENTS:

- (a) Council will create and maintain a working environment in which the dignity of employees is respected. A climate in the workplace will also be created and maintained in which victims of sexual harassment will not feel that their grievances are ignored or trivialised, or fear reprisals. The following guidelines will be implemented to achieve these ends:
 - (i) Both Management and employees will be required to refrain from committing acts of sexual harassment.
 - (ii) Both Management and employees will contribute towards creating and maintaining a working environment in which sexual

harassment is unacceptable. They will ensure that their standards of conduct do not cause offence and they will discourage unacceptable behaviour on the part of others.

- (iii) Management will ensure that the employer or its employees do not subject persons such as customers, suppliers, job applicants and others who have dealings with the business, to sexual harassment.
 - (iv) Management will take appropriate action in accordance with this code, when instances of sexual harassment, which occur within the workplace, are brought to their attention.
- (b) This policy recognises the primacy of collective agreements regulating the handling of sexual harassment cases, and is not intended as a substitute for disciplinary codes and procedures containing such measures, where these are the subject of collective agreements.
- (c) Council is committed to ensure that:
- (i) All employees, job applicants and other persons who have dealings with the business, are treated with dignity.
 - (ii) Sexual harassment in the workplace is not permitted or condoned.
 - (iii) Persons who have been subjected to sexual harassment in the workplace have a right to raise a grievance about it, should it occur.
 - (iv) Management is placed under a positive duty to implement the above policy and take disciplinary action against employees who do not comply with the policy.
 - (v) Allegations of sexual harassment are dealt with seriously, expeditiously, sensitively and confidentially.
 - (vi) Employees are protected against victimisation, retaliation for lodging grievances and from false accusations.

6. PROCEDURES:

(a) Advice and Assistance

Council will provide advice, assistance and counseling to affected employees free of charge through Council's Employee Assistance Programme (EAP).

(b) Informal Procedure

(i) Every employee concerned will have an opportunity where he/she can explain to the person engaging in the unwanted conduct that the behaviour in question is not welcome, that it offends them or makes them uncomfortable, and that it interferes with their work.

(ii) If the informal approach has not provided a satisfactory outcome, if the case is severe or if the conduct continues, the employee concerned may embark upon a formal procedure. Severe cases may include: sexual assault, rape, a strip search and quid pro quo harassment.

(iii) No employee is under duress to follow the informal procedure first.

(c) Formal procedure

(i) Council's grievance procedure.

(ii) If a case is not resolved satisfactorily after following the above procedure, the dispute procedures contained in item 7(5) may be followed.

(d) Investigation and disciplinary action

(i) Care will be taken during any investigation of a grievance of sexual harassment that the aggrieved person is not disadvantaged, and that the position of other parties is not prejudiced if the grievance is found to be unwarranted.

(ii) Serious incidents of sexual harassment or continued harassment after warnings will be regarded as dismissable offences.

- (iii) In cases of persistent harassment or single incidents of serious misconduct, Council will also take into consideration the procedures set out in the Code of Good Practice contained in Schedule 8 of the Labour Relations Act, Act 66 of 1995 (hereinafter referred to as the LRA).
- (iv) It will be a disciplinary offence to victimise or retaliate against an employee who in good faith lodges a grievance of sexual harassment.

(e) Criminal and civic charges

A victim of sexual assault has the right to press separate criminal and and/or civic charges against an alleged perpetrator, and the legal rights of the victim are in no way limited by this code.

(f) Dispute resolution

Should a complaint of alleged sexual harassment not be satisfactorily resolved by the internal procedures set out above, either party may within 30 days of the dispute having arisen, refer the matter to the SALGBC for conciliation, or may further act in accordance with any applicable provision provided for in the LRA.

7. CONFIDENTIALITY:


- (a) Council will ensure that grievances about sexual harassment are investigated and handled in a manner that ensures that the identities of the persons involved are kept confidential.
- (b) In cases of sexual harassment, management, employees and other parties concerned will endeavour to ensure confidentiality in the case of a disciplinary enquiry. Only appropriate members of management as well as the aggrieved person, his/her representative, alleged perpetrator, witnesses and interpreter if required, will be present in a disciplinary enquiry.
- (c) Management will disclose to either party or to their representatives, such information as may be reasonably necessary to enable the parties to prepare for any proceedings in terms of this code.

8. INFORMATION AND EDUCATION:

The issue of sexual harassment will be included in the orientation and applicable education and training programmes of employees.

9. IMPLEMENTATION:

This code and policy will become effective from the date of approval thereof by Council.

Signature:	
Initials and Surname:	G. M. E. PAYA
Designation:	MAYOR.
Council Resolution Number:	DC/7.5/29/05/19
Council Date:	29/05/2019.

**MOLEMOLE LOCAL MUNICIPALITY
2019-2020**



**INTERNAL TRANSFER AND
PLACEMENT POLICY**

1. DEFINITIONS IN TERMS OF THE PLACEMENT POLICY

Transfer entails a change of employer by structure and substituted in the place of the existing structures under section 12 published in terms of the Structures Act and under section 197 of the Labour Relations Act.

Placement is the process of placement in post within the new Organogram on the basis of staff follows functions.

Direct Placement is the process of appointing an employee directly in the same or similar post.

Selective placement is the process of selecting an employee to be appointed to the same or similar post where more than one employee could be placed into that post (i.e. the post is competitive)

Deployment is the process in which an employee is appointed to another post which reflects contractual changes in respect of location, status, or job content.

Redeployment is the process of appointing a displaced employee from the corporate pool to a post according to the operational needs of the organization.

Retraining is (a) the process of preparing an employee to perform the inherent requirements of the job to which he/she has been/ will be migrated , placed, redeployed etc provided that (b) where an employee cannot be migrated or where the employee has been in the corporate pool without being migrated, placed, redeployed etc. for longer than the allowable period and is deemed by the Placement Committee to be at risk on non-deployment, the employee is appropriately retained having regard to the purposes of the Skills Development Act 99 of 1998 as set out in section 2 (a) thereof.

All appointments whether they are a result of placement, deployment or redeployment to be effected through a reasonable offer of employment in the appointed post or position in the new structure and the acceptance by the employee concerned.

Substantial in terms of this policy, the job content should be 70% or more/larger portion thereof.

Job content is a written summary of the incumbent's main functions or key performance areas.

2. OBJECTIVES

- To effectively manage the internal transfer process and placement

- To ensure effective and orderly service delivery in the interim within the Molemole Municipality until the placement of staff in the new Organogram.
- To develop a fair placement procedure that minimizes claims and disputes.
- To develop an internal Appeals Committee that can promptly deal with objections and disputes, which may arise in the process without detracting from the Bargaining Council procedures.
- To fully involve the Trade unions as representatives of employees, in the process and the approach to population in which parties may engage in a meaningful joint consensus seeking process. The purpose of this will be to alleviate fears and uncertainties and generally encourage constructive participation in the process.
- To communicate the process transparently and non- selectively to employees and their representatives at all times.
- To develop a process that minimizes the redundancy claims by employees.
- The parties are committed to ensure continuity of employment and every attempt will therefore be made to ensure that no retrenchments or redundancies will occur, provided that the affected employees are willing to accept reasonable alternative positions that are offered.
- To develop a process that facilitates a smooth transition to the matching and placement of employees in the new Organogram.

3. PRINCIPLES

- Job security is a priority
- Skills retention is a priority.
- Skills development is a priority.
- Employment Equity is a priority.
- The process should encourage high- level employee involvement and promote Trade Union participation.
- The parties will engage in a meaningful joint consensus seeking process in good faith with the intention of agreeing on a Matching and Placement policy.
- The principle that staff follows function based on validated job content applies. Employees shall not be moved from one location to another without the function, which the employee is performing necessitating such movement except in cases of redeployment or based on the employer's operational requirements.
- The incumbents in acting positions have no superseding right to permanent placement within those positions.
- Transparency must underpin the whole process regarding decision making and implementation.
- All employees to be placed must be suitably qualified or have the capacity to become suitably qualified within a reasonable period of time in respect of the specified suitable posts.

- Efficient and speedy resolution of objections.
- The procedure will adhere to the principle of fairness in line with the LRA as amended.
- The Placement committee, within the guidelines of this policy manual prepares a practical and user-friendly administrative manual to guide the Matching and Placement process envisaged in this policy manual.

The aim of the administrative manual should be:

- To standardize procedures and streamline the Matching and Placement process.
- To promote sound and consistent decision; and
- To create sufficient control measures for the execution of the process within the approved policy.

4. INTERNAL TRANSFER

4.1 All internal positions transfers should be subject to an operational requirements and should be facilitated through the office of Human Resource Management to ensure consistency. Any reasons furnished in support of the internal transfer request shall be carefully scrutinized by the Municipal Manager prior to granting of such request.

5. MATCHING AND PLACEMENT PROCEDURE

5.1 Placement Committee

Arising from the need to finalise and ensure proper migration of employees into the new Organogram, the following members are proposed to form part of the Placement Committee:

Chairperson	Manager - HRM
Member	Skills Development Facilitator
Member	Secretary - Corporate Services as Scriber
Member	2 SAMWU
Member	2 IMATU

Director of the directorate concerned

5.2 Functions of the Placement Committee (Inter alia)

- To consider all submissions made by the Director for matching and placing of employees in their various directorates.
- To communicate all their decisions to the employees concerned via the office of the Manager: Human Resources.
- The Placement Committee has the right to approve or reject submissions.
- The placement committee will ensure and oversee the consistency and fair application of the placement process and placement policy.

The placement committee, within the guidelines of this policy will prepare a practical and user-friendly administrative process to guide the placement process.

The placement of staff shall be done in a manner consistent with the objectives of the Employment Equity Act and Skills Development Act.

5.3 Appeals Committee

Every employee and or trade union (SAMWU/IMATU) shall have the right to refer his/her grievance on placement or non-placement to the Appeals Committee, within 5 days after the placement Committee makes known its results or decisions.

The following members are proposed to form part of the Appeal Committee:

Chairperson Municipal Manager

Member All Senior Managers

Member Manager – Legal

Member SAMWU (Alternate)

Member IMATU (Alternate)

N.B- Any 5 members of the Appeal Committee forms a quorum for the meeting.

6. FUNCTIONS OF THE APPEALS COMMITTEE

- To consider matching and placing objection in all instances.
- The decision of Appeals Committee shall be made available within 7 working days after the conclusion of its meeting. Such decisions shall be deemed to be final.
- Should the Appeals Committee be unable to reach an agreement, it shall refer the matter to the Mayoral Committee for determination.

7. CRITERIA FOR APPOINTMENT

Matching and Placement to a post in the new Organogram shall be undertaken in accordance with the following matrix:

CRITERIA	PROCESS
1. Job contents the same and post levels the same (i.e. 100% match)	Direct Placement
2. Job contents substantially the same and the post level the same (i.e. not identical but largely the same).	Direct Placement
3. Job contents the same or substantially the same and the post level the same <u>if more candidates than posts.</u>	Selective placement and potential displacement of unsuccessful candidates into corporate pool if no deployment opportunities exist.
4. Job contents substantially the same and the post level higher.	Selective placement and potential displacement of unsuccessful candidates into corporate pool if no deployment opportunities exist.
5. Job contents changed and post level the same.	Deployment
6. Job contents decrease and post level lower.	Deployment
7. Job contents increase and post level higher.	Deployment
8. New Posts	Deployment or placement

An employee who cannot be placed, or deployed in the new Organogram is considered to be displaced into the corporate pool and shall be dealt with in terms of the redeployment process.

Every employee will be informed within 5 working days of the post into which he/she has been migrated, and will have an opportunity to raise objections (within 5 working days).

Those jobs in the new Organogram that have to be filled through selective placement will be internally advertised and appointments to those jobs will be on application in accordance with the normal recruitment, selection, and appointment procedure. Those employees who are not appointed will be placed in the corporate pool of employees for redeployment, re-skilling, and/or training.

8. NEW POSTS

All new posts, which carry duties and responsibilities that do not exist in any form in the present Organogram. These posts shall be advertised internally and externally should internal candidates not qualify.

7.1 GUIDELINES FOR THE PROCESS

- Job profiles must be completed and validated before placement begins.

- All posts of the same level or higher, with more than one qualifying candidate will be filled in accordance with objective criteria based on and or suitably qualified.
- Employees must be notified in writing of their offer of placement. The notice must advise the employee of the right to apply for reconsideration against the offer of placement (essentially this means that the employee will have the right to lodge an objection).
- The matching and placing process is to be done in accordance with agreed delegated authority.
- Any employee who is aggrieved by the Matching and Placing process in respect of which the employee has a material interest may apply in writing to the appeal Committee for a re-consideration of the placement committee decision stating their reasons for their objections.
- The placement committee must finalise all placement of staff.

9. MIGRATION- REDEPLOYMENT

8.1 General Guidelines

- An employee is regarded as displaced if he/she is unsuccessful in a selective placement process and then is not deployed either because no reasonable alternative post was offered or because the reasonable alternative offer was refused.
- A displaced employee's services are required by the organization and can be utilized elsewhere in the organization.
- Displaced employees will be dealt with according to this process in order to prevent or minimize redundancies and retrenchments.
- The term "Corporate Pool" is not a literal grouping in that employees are not physically relocated to a pool but will continue to be managed at the level at which they previously occupied posts.
- Should no opportunities for displaced employees exist for alternative placement at the appropriate level, affected employees will become part of a "Corporate pool" for the redeployment to opportunities identified elsewhere in the new organization. Information regarding their competencies, skills, experience, interest and any other relevant information will be captured in a corporate database that will be regularly maintained in order to facilitate efficient matching of employee competence/potential re-training capability.
- As placement opportunities within the organogram are identified, employees within the pool will be informed and assisted in taking up the opportunity to be placed. The corporate database will be used to match employees within the pool with

vacant positions on the basis of their competence and/or potential to acquire competence within a reasonable period of time with or without re-training.

- The important principle in the placement of employees from within the corporate pool is the need to reduce the corporate pool. Therefore employees from within the corporate pool that are either competent to perform in the post based on the inherent requirements and are trainable, will be given preference over other employees who are currently placed.

In order to facilitate the placement of employees within the corporate pool, the following will take place:

- Where there is a close match in terms of function and designation (this includes an allowance for limited training), vacant posts will not be advertised. However, employment equity, (i.e. skills/competence) will be used, as criteria to be applied to applicants from within the pool should there be more than one obvious match.
- Where there is no obvious match, but there is a good chance of successfully accommodating someone from within the pool, the internal post will be circularized. Employees within the pool will be given preference over other employees from within the organization who are suitably qualified. Should more than one employee from within the pool be considered suitable applicants, then employment equity will be used as criteria to be applied to applicants from within the pool. Should there be no suitable applicants from within the pool then other (non-pool) internal applicants will be considered according to normal selection/placement criteria.

8.2 Rules and guidelines for the redeployment of displaced employees

The motivation for the redeployment of employees from within the pool is to reduce the pool, and minimize redundancies.

- Displaced employees in the corporate pool to be considered for redeployment before any vacant posts are filled externally.
- Where redeployment opportunities are identified the following will apply:
 - i. If the opportunities match the displaced employees:
 - a) Equal post in terms of job content and level of displaced employee (non-competitive situation and obvious match), direct placement to be effected.
 - b) Equal post in terms of job content and level with more than one suitable candidate in the pool, (obvious match but competitive situation), a selection process to be effected to determine most suitable candidate from the pool.
 - ii. Where the opportunities do not match the displaced employees:

- a) If the opportunity is a higher post than the post the displaced employee occupied and a good chance for redeployment of an employee from the pool exists, such opportunity to be advertised internally and the displaced employee to be considered together with other internal applicants.
- b) If the opportunity is a lower post than the displaced employee occupied, the displaced employee may be redeployed on a contractual-to-incumbent basis, provided that where more than one displaced employee could be redeployed on a contractual-to-incumbent basis, the most suitably qualified displaced employee shall be redeployed.

iii. Displaced employees in the corporate pool will receive training and development relevant to redeployment opportunities and organizational needs and with the view to enhance such employee's chances for redeployment.

iv. A suitable employee will be nominated internally to manage the corporate pool, and will report to the Placement Committee.

v. The Training and Development section to arrange training/development for employee within the pool according to identified placement and/or present and future needs of the organization.

10. MIGRATION- ADMINISTRATIVE PROCESS AND PROCEDURE

- The relevant line manager is responsible to inform the Manager: HR where the displacement of employees exists or is contemplated and to provide all relevant information pertaining to the displacement of employees to the Manager: HR.
- The Manager: HR is to submit the information to the relevant union(s) and to arrange for consultations with representatives of the relevant union(s) to consider the contemplated displacement and/or proposed redeployment of employees. Consultations to take place at a directorate level or such alternative forum as may be established upon agreement between the parties.
- After conclusion of the consultations, the relevant line manager in conjunction with Labour Relations/Human Resources units and in consultation with the unions and/or employee, shall:
 - a) Identify the employees to be displaced and redeployed;
 - b) Identify opportunities for redeployment within Strategic business Units (SBU).
 - c) Inform the Manager: HR of the particulars of the identified displaced employees and identified redeployment opportunities within the SBUs.
- After displaced employees have been identified, the following will apply:
 - a) Displaced employees to be redeployed into the identified opportunities in the SBUs in accordance with the Placement Policy.
 - b) Displaced employees who could not be redeployed within the SBUs to be accommodated in the pool and be managed further in terms of the Placement Policy.

- The Manager: HR will be responsible:

To keep and maintain records of the identified displaced employees to be redeployed (Pool candidates):

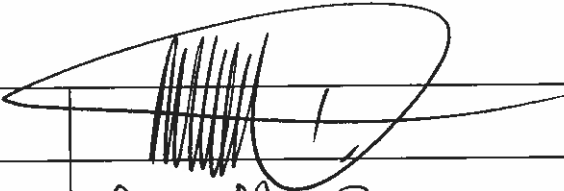
- To assess the potential of displaced employees with regard to skills, abilities, knowledge, qualifications, etc. for purposes of redeployment into alternative posts and/or for addressing training needs of the displaced employee in relation to available redeployment opportunities;
- To identify suitable vacancies and to place employees in such vacancies;
- To inform line management of the availability of displaced employees for redeployment;
- To monitor vacancies for possible redeployment opportunities and to ensure consideration of displaced employees when opportunities arise.

MIGRATION – ARRANGEMENTS UNTIL REDEPLOYMENT

- The displaced employee remains the responsibility of the line manager where the disestablished post occurred until such time as the employee is redeployed.
- The responsible line manager should in consultation with the Manager: HR, determine the interim job/functions, relative to the level of the post the displaced employee previously occupied, to be executed by the employee or to ensure productive utilization of the employee until the displaced employee is redeployed.

ENDORSEMENT

The Policy shall come into effect on the date of endorsement and shall cease only in the event where changes / variations has been signed by the Accounting Officer. Changes resulting from change in legislation or any mandatory order will have automatic effect.

Signature:	
Initials and Surname:	Cllr. M.E. PAYA
Designation:	MAYOR.
Council Resolution Number:	OC/7.5/29/05/19
Council Date:	29/05/2019.